

## Remarks

This Application has been carefully reviewed in light of the Office Action mailed January 20, 2004. At the time of the Office Action, claims 1-41 were pending in this application. In the Office Action, the Examiner rejects claims 1-41. By this amendment, Applicants have amended claims 1, 2, 5, 8, 9, 13, 14, 15, 18, 20, 29, 30, 33 and 34 to clarify the subject matter in which the Applicants claim as their invention and to advance prosecution in this case. No new matter has been introduced by these amendments. Applicants do not admit that these amendments were necessary as a result of any cited art. Applicants respectfully request reconsideration of the above application in view of the following remarks.

### **Rejection of claims 1-28 under § 101 as being directed to non-statutory subject matter**

Claims 1-28 stand rejected under 35 U.S.C. § 101 because the Examiner states the claimed invention is directed to non-statutory subject matter. According to the Examiner, for a claimed invention to be statutory, the claimed invention must be within the technological arts. The Examiner states mere ideas in the abstract and therefore are found to be non-statutory subject matter. According to the Examiner, for a process claim, the recited process must somehow apply, involve, use, or advance the technological arts. The Examiner also states that for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result.

Applicants respectfully traverse the Examiner's rejection since the standard for utility applied by the Examiner is erroneous. Applicants respectfully disagree that a process claim must recite a process that somehow advances the technological arts. After careful review of binding Federal Circuit case law, Applicants opine that § 101 only necessitates that a claimed invention must produce a useful, concrete, and tangible result to be statutory. For instance, in *AT&T Corp. v. Excel Communications*, 50 USPQ2d 1447, 1452 (Fed. Cir. 1999), the CAFC held that patent claims directed at a method for transforming data, *i.e.*, a standard

exchange message, into another form of data, *i.e.*, an exchange message including a primary interexchange carrier indicator, through Boolean algebra constituted patentable subject matter under 35 U.S.C. § 101. In his opinion, Judge Plager stated that the presence of transformed data could be indicia of statutory subject matter, if the data had a specific meaning that gave a useful, concrete, and tangible result:

The finding [in *Arrhythmia*] that the claimed process “transform data from one ‘form’ to another” simply confirmed that *Arrhythmia*’s method claims satisfied § 101 because the mathematical algorithm included within the process was applied to produce a number which had specific meaning - a useful, concrete, tangible result - not a mathematical abstraction.

*AT&T Corp. v. Excel Communications*, 172 F.3d at 1959.

*AT&T Corp.* reinforces that the sole requirement for statutory subject matter under § 101 is that a claim must have a useful, concrete and tangible result. The Examiner’s use of an additional requirement, *i.e.* advancement of the technological arts, is misplaced.

Notwithstanding the Applicants’ traversal based on application of the incorrect standard for utility, and without acquiescence to the Examiner’s rejection, Applicants have amended claim 1 to recite “wherein the report processor is operable to generate a report related to consumer product online orders based on at least a portion of the information stored in the report database.” This limitation clearly produces a useful, concrete, and tangible result since the report related to consumer manufactured product online orders creates a means that a user can physically manipulate. Likewise, Applicants have amended claim 14 to recite the step of “generating a report related to consumer manufactured product online orders based on at least a portion of the information stored in the report database.” This limitation also clearly produces a useful, concrete, and tangible result since the report related to consumer manufactured product online orders creates a means that a user can physically manipulate. For at least this reason, Applicants respectfully request reconsideration and allowance of claim 1, and claims 2-13 that depend on claim 1 and claim 14, and claims 15-28 that depend on claim 14.

**Rejection of claims 1, 3-5, 8, 14-20, and 29-34 under 35 U.S.C.  
§ 103(a) as being unpatentable over *Cathey et al.***

Claims 1, 3-5, 8, 14-20 and 29-34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,778,182 (*Cathey*). Applicants respectfully request reconsideration of this rejection of claims 1, 3-5, 14-20, and 29-34 because *Cathey* fails to teach, suggest, or disclose various aspects of pending claims 1, 2-5, 14-20 and 29-34.

*Cathey* does not teach, disclose or suggest the pending claims. For instance, claim 1 recites “a report processor ... operable to generate a report related to manufactured product online orders.” *Cathey* does not teach, disclose or suggest the generation of reports for manufactured products. In the field of the invention, *Cathey* limits the invention to “a usage management system that tracks usage information in an interactive television or computer network environment.” To the extent that *Cathey* tracks usage information, the tracking is directed at television programs and applications (for example, video games or interactive programming). At most, *Cathey* proposes a system and method that “can monitor and track the usage of various titles available in an interactive television system.” col. 1, lines 32-35. *Cathey* does not track or generate reports relating to manufactured products (for example, automobile vehicles) that are ordered online. For at least this reason, claim 1 is patentable in light of the *Cathey* reference and the other references of record.

Further, claims 3-5 (depending from claim 1) are patentable for the above stated reasons, as well as their own limitations. For example, claim 5 recites that “the session report message further comprises a configuration identifier assigned to each user-selected manufactured product configuration.” *Cathey* is limited to a usage tracking system for television applications and simply does not teach or suggest the tracking of a user-selected manufactured product configuration. For at least these reasons, claims 3-5 are patentable in light of the *Cathey* reference and the other references of record.

Claim 14 is patentable over *Cathey* for reasons similar to those for claim 1. Claim 14 recites “capturing an online order containing at least one manufactured product

identifier and at least one manufactured product configuration submitted by an online user.” For the reasons as urged above, claim 14 is patentable over *Cathey* since *Cathey*’s teachings are limited to tracking of usage information in an interactive television or computer network environment. Further, claims 15-20 (depending from claim 14) are patentable for the above stated reasons, as well as their own limitations. For example, claim 15 recites “generating an order message incorporating the at least one manufactured product identifier and the at least one product configuration.” As another example, claim 18 recites “capturing click stream data associated with user input to select a manufactured product configuration.” These limitations of claims 15 and 18 are not taught or suggested by *Cathey* or the other references of record. For at least these reasons, claims 14-20 are patentable in light of the *Cathey* reference and the other references of record.

Claim 29 is patentable over *Cathey* for reasons similar to those for claims 1 and 14. Claim 29 recites “capturing a manufactured product configuration by an online customer.” At least this step of claim 29 is not disclosed, taught or suggested by *Cathey*. Further, claims 30-34 (depending from claim 29) are patentable for the above stated reasons, as well as their own limitations. For example, claim 30 recites “generating an order message incorporating the manufactured product identifier and the manufactured product configuration.” This limitation is not taught by *Cathey* or the other references of record. For at least these reasons, claims 29-34 are patentable in light of the *Cathey* reference and the other references of record.

**Rejection of claims 2, 6, 7, 9, 10, 22, 23, 27, 28, 36, 37, 40  
and 41 under § 103(a) as being unpatentable over *Cathey*  
in further view of *Brandt***

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Claims 2, 6, 7, 9, 10, 22, 23, 27, 28, 36, 37, 40 and 41 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Cathey* and further in view of U.S. Patent No. 6,377,933 (*Brandt*). Claims 2, 6, 7, 9 and 10 depend from claim 1, which Applicants have shown above to be allowable, and are allowable for at least this reason. In addition, claims 2, 6, 7, 9 and 10 recite further patentable distinctions over the references of record. However, to avoid burdening the record and in view of the clear allowability of claim 1, Applicants do not specifically address these reasons in this response. Applicants reserve the right to present

these reasons in a future response if appropriate. Claims 22, 23, 27 and 28 depend from claim 14, which Applicants have shown above to be allowable, and are allowable for at least this reason. In addition, claims 22, 23, 27 and 28 recite further patentable distinctions over the references of record. However, to avoid burdening the record and in view of the clear allowability of claim 14, Applicants do not specifically address these reasons in this response. Claims 36, 37, 40 and 41 depend from claim 29, which Applicants have shown above to be allowable, and are allowable for at least this reason. In addition, claims 36, 37, 40 and 41 recite further patentable distinctions over the references of record. However, to avoid burdening the record and in view of the clear allowability of claim 29, Applicants do not specifically address these reasons in this response. For at least these reasons, Applicants respectfully request reconsideration and allowance of claims 2, 6, 7, 9, 10, 22, 23, 27, 28, 36, 37, 40 and 41.

**Rejection of claims 11, 26 and 39 under § 103(a) as being unpatentable over *Cathey* in view of *Sutcliffe***

Claims 11, 26 and 39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Cathey*, and in further view of U.S. Patent No. 6,073,105 (*Sutcliffe*). Claim 11 depends from claim 1, which Applicants have shown above to be allowable, and is allowable for at least this reason. In addition, claim 11 recites further patentable distinctions over the references of record. However, to avoid burdening the record and in view of the clear allowability of claim 1, Applicants do not specifically address these reasons in this response. Applicants reserve the right to present these reasons in a future response if appropriate. Claim 26 depends from claim 14, which Applicants have shown above to be allowable, and is allowable for at least this reason. In addition, claim 26 recites further patentable distinctions over the references of record. However, to avoid burdening the record and in view of the clear allowability of claim 14, Applicants do not specifically address these reasons in this response. Claim 39 depends from claim 29, which Applicants have shown above to be allowable, and is allowable for at least this reason. In addition, claim 39 recites further patentable distinction over the references of record. However, to avoid burdening the record and in view of the clear allowability of claim 29, Applicants do not specifically address these reasons in this response.

For at least these reasons, Applicants respectfully request reconsideration and allowance of claims 11, 26 and 39.

**Rejection of claims 12, 13, 21, 24, 35 and 38 under § 103(a)  
as being unpatentable over *Cathey* in view of *Brown***

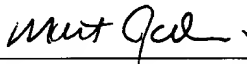
Claims 12, 13, 21, 24, 35 and 38 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Cathey*, and further in view of U.S. Patent No. 5,794,219 (*Brown*). Claims 12 and 13 depend from claim 1, which Applicants have shown above to be allowable, and are allowable for at least this reason. In addition, claims 12 and 13 recite further patentable distinctions over the references of record. However, to avoid burdening the record and in view of the clear allowability of claim 1, Applicants do not specifically address these reasons in this response. Applicants reserve the right to present these reasons in a future response if appropriate. Claims 21 and 24 depend from claim 14, which Applicants have shown above to be allowable, and are allowable for at least this reason. In addition, claims 21 and 24 recite further patentable distinctions over the references of record. However, to avoid burdening the record and in view of the clear allowability of claim 14, Applicants do not specifically address these reasons in this response. Claims 35 and 38 depend from claim 29, which Applicants have shown above to be allowable, and is allowable for at least this reason. In addition, claims 35 and 38 recite further patentable distinction over the references of record. However, to avoid burdening the record and in view of the clear allowability of claim 29, Applicants do not specifically address these reasons in this response. For at least these reasons, Applicants respectfully request reconsideration and allowance of claims 12, 13, 21, 24, 35 and 38.

### **Conclusion**

For the foregoing reasons, Applicants believe that the Office Action of January 20, 2004 has been fully responded to. Consequently, in view of the above amendments and remarks, Applicants respectfully submit that the application is in condition for allowance, which allowance is respectfully submitted.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Matthew M. Jakubowski, Attorney for Applicants, at Examiner's convenience at (248) 358-4400.

Respectfully submitted,  
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